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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,631	07/03/2003	Kuansan Wang	M61.12-0521	4356
27366 7590 02/22/2007 WESTMAN CHAMPLIN (MICROSOFT CORPORATION) SUITE 1400 900 SECOND AVENUE SOUTH MINNEAPOLIS, MN 55402-3319			.EXAMINER AZAD, ABUL K	
			ART UNIT	PAPER NUMBER
			2626	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/22/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/613,631

Applicant(s)

WANG, KUANSAN

Examiner

ABUL K. AZAD

Art Unit

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31, 34, 37 and 38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Claims 1-38 are pending in this Office Action.

#### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claims 1-26 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.
2. An invention may be patentable only if it falls in of the four statutory class of subject matter 35 U.S.C. 101 *Kewanee Oil Corp.*, 416 U.S. 470, 483, 181 USPQ 673, 679 (1974). The CCPA stated that "any process, machine, manufacture, or composition of matter constitutes statutory subject matter unless it falls within a judicially determined exception of section 101." *In re Pardo*, 684 F. 2d 912, 214 USPQ 673, 677 (CCPA 1982). The claims are directed to non-statutory subject matter because the claimed subject matter falls within the mere idea or abstract intellectual concept exception to U.S.C. 101.
3. Descriptive material that cannot exhibit any function interrelationship with the way in which computing process are performed does not constitute a statutory process. Non-functional descriptive material stored on a medium is merely carried on the medium, it is not structurally or functionally interrelated to the medium. The allowance of such a claim would exalt form over substance. See Guidelines IV.B.1(a)-(b).
4. Computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs, are not physical "things." They are neither computer

components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized.

5. When nonfunctional descriptive material is recorded on some computer-readable medium, in a computer or on an electromagnetic carrier signal, it is not statutory since no requisite functionality is present to satisfy the practical application requirement. Merely claiming nonfunctional descriptive material, i.e., abstract ideas, stored on a computer-readable medium, in a computer, or on an electromagnetic carrier signal, does not make it statutory. See *Diehr*, 450 U.S. at 185-86, 209 USPQ at 8 (noting that the claims for an algorithm in *Benson* were unpatentable as abstract ideas because "[t]he sole practical application of the algorithm was in connection with the programming of a general purpose computer."). Such a result would exalt form over substance. In re *Sarkar*, 588 F.2d 1330, 1333, 200 USPQ 132, 137 (CCPA 1978) ("[E]ach invention must be evaluated as claimed.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Marquette (US 2004/0125794).

As per claim 1, Marquette teaches, “a computer readable medium having instructions that, when implemented on a computer cause the computer to process information”, the instructions comprising:

“a stepwise module including instructions executed in a defined order based on an execution algorithm” (Fig. 5, element 502, VXML); and

“an object oriented module including at least one object having a temporal trigger for initializing an operation associated with the instructions” (Fig. 5, element 502, SALT).

As per claim 2, Marquette teaches, “wherein the execution algorithm automatically invokes the temporal trigger when at least one object is encountered” (Paragraph 0031).

As per claim 3, Marquette teaches, “wherein the stepwise module is a VoiceXML module executing a form interpretation algorithm” (Paragraph 0031).

As per claim 4, Marquette teaches, "wherein the object oriented module is a SALT module having speech application language tags" (paragraph 0031).

As per claim 5, Marquette teaches, "wherein the temporal trigger initializes a speech recognition event" (paragraph 0041).

As per claim 6, Marquette teaches, "wherein the temporal trigger initializes a DTMF recognition event" (paragraph 0042).

As per claim 7, Marquette teaches, "wherein the temporal trigger initializes a messaging event" (paragraph 0042).

As per claim 10, Marquette teaches, "wherein the object oriented module initializes a recognition event having a plurality of grammars to obtain a recognition result and associates the recognition result with at least one of the plurality of grammars" (paragraph 0041).

As per claim 12, Marquette teaches, "wherein the stepwise module declares a field and wherein the object oriented module declares initializes a recognition event to obtain a recognition result from the user to fill the field and executes a prompt to render the field to the user" (paragraphs 0041 and 0042).

As per claim 13, Marquette teaches, "wherein the object oriented module executes a messaging event to connect to a remote application" (paragraph 0040).

As per claim 14, Marquette teaches, "wherein the object oriented module receives the result based on the messaging event and renders the result to a user" (paragraph 0042).

As per claim 15, Marquette teaches, "wherein the execution algorithm as automatically advances to a subsequent instruction after completion of the operation" (paragraphs 0041 and 0042).

As per claim 16, Marquette teaches, "wherein the trigger is one of an indication of error, exception, recognition and no recognition" (paragraph 0042).

As per claim 17, Marquette teaches, "wherein the trigger is completion of a playback instruction" (paragraphs 0041 and 0042).

As per claim 18, Marquette teaches, "wherein the trigger is receipt of a message" (paragraph 0042).

As per claims 19, 22, 25-31, 34, 36-38, they are interpreted and thus rejected for the same reasons set forth in the rejection of claims 1-7, 10, 12-18, because of similar scope in the claims limitations.

#### ***Allowable Subject Matter***

5. Claims 32, 33, 35 and 36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Contact Information***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Abul K. Azad** whose telephone number is **(571) 272-7599**. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Richemond Dorvil**, can be reached at **(571) 272-7602**.

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Any response to this action should be mailed to:

**Commissioner for Patents**

**P.O. Box 1450**


**Alexandria, VA 22313-1450**

Or faxed to: **(571) 273-8300**.

Hand-delivered responses should be brought to **401 Dulany Street, Alexandria, VA-22314** (Customer Service Window).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

February 16, 2007

  
Abul K. Azad  
Primary Examiner  
Art Unit 2626